

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

1-800 CONTACTS, INC.,

Plaintiff/Counterclaim-Defendant,

v.

VISION DIRECT, INC.,

Defendant/Counterclaim-Plaintiff.

Case No. 08-cv-01949 (GBD)

ECF Case

**NOTICE OF MOTION AND  
PLAINTIFF'S MOTION FOR  
DISMISSAL OF DEFENDANT'S  
COUNTERCLAIMS PURSUANT TO  
FED.R.CIV.P. 12(b)(6)**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Plaintiff/Counterclaim-Defendant 1-800 CONTACTS, INC. will move, and hereby does move this Court, before the Honorable George B. Daniels, United States District Judge, at the United States Courthouse, 500 Pearl Street, New York, New York, in Courtroom 15D, pursuant to Federal Rule of Civil Procedure 12(b)(6), to dismiss Defendant/Counterclaim-Plaintiff Vision Direct, Inc.'s Counterclaims, on the ground that they fail to state a claim upon which relief can be granted.

This Motion is based on this Notice of Motion and Motion, the accompanying Memorandum in Support of Plaintiff/Counterclaim-Defendant's Motion for Dismissal of Defendant/Counterclaim-Plaintiff's Counterclaims Pursuant to Fed. R. Civ. P. 12(b)(6), the Declaration of Danielle M. Criona filed herewith and exhibits thereto, the contents of the Court's file to date, and such additional argument and evidence as may be presented to the Court.

SIGNATURE ON NEXT PAGE

DATED: May 23, 2008

Respectfully submitted,  
CHRISTIE, PARKER & HALE, LLP

By: /s/David J. Steele

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